

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG

JOSEPH LOUDIN,
GLOBAL DRONE SURVEYING AND
INSPECTIONS, LLC,
a West Virginia Limited Liability Company,
and JOHN DOE,

ELECTRONICALLY
FILED
Apr 24 2020
U.S. DISTRICT COURT
Northern District of WV

Plaintiffs,

v.

Civil Action No. 1:20-CV-76 (Keeley)
(Formerly Gilmer County Circuit Court, Civil Action No. 20-C-7)

SMITH LAND SURVEYING, INC.,

Defendant.

NOTICE OF REMOVAL

Defendant Smith Land Surveying, Inc. (“SLS”) gives notice of removal of the action styled *Joseph Loudin, Global Drone Surveying and Inspections, LLC, and John Doe v. Smith Land Surveying, Inc.*, Civil Action No. 20-C-7, pending in the Circuit Court of Gilmer County, West Virginia, to the United States District Court for the Northern District of West Virginia pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446. The grounds for removal are as follows:

1. On or about March 24, 2020, Plaintiffs Joseph Loudin (“Loudin”), Global Drone Surveying and Inspections, LLC (“Global Drone”), and John Doe (“Doe”) (collectively, “Plaintiffs”) filed their “Complaint” in the Circuit Court of Gilmer County, West Virginia against SLS. SLS was served with the Summons and Complaint on March 27, 2020 via the West Virginia Secretary of State.

2. Copies of the Summons, Complaint, and all other documents served on SLS are attached as **Exhibit A**. A certified copy of the Gilmer County Circuit Court docket sheet is attached as **Exhibit B**. A complete copy of the Gilmer County Circuit Court file is attached as **Exhibit C**.

3. This Notice of Removal is being filed within thirty (30) days after service of the Complaint on SLS and is, therefore, timely filed under 28 U.S.C. § 1446(b).

4. Plaintiffs allege that SLS violated the Fair Labor Standards Act (“FLSA”) by failing to pay Loudin and Doe overtime pay. (*See* Complaint, ¶¶ 15–18). Plaintiffs further alleges claims of breach of contract, fraud in the inducement, conversion, and wrongful termination. (*See* Complaint).

5. Without question, Plaintiffs allege that SLS violated the FLSA. Consequently, Plaintiffs’ claims arise under the “Constitution, laws, or treaties of the United States” within the meaning of 28 U.S.C. § 1331, and this matter is, therefore, removal under 28 U.S.C. § 1441(b) (providing that “[a]ny civil action for which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties”).

6. As to Plaintiffs’ claims of breach of contract, fraud in the inducement, conversion, and wrongful termination, this Court has supplemental jurisdiction over those claims by virtue of 28 U.S.C. § 1367.

7. Based on all of the foregoing, SLS has removed this action from the Circuit Court of Gilmer County, West Virginia to the United States District Court for the Northern District of West Virginia. Accordingly, no further proceeding in this civil action may occur in the Gilmer County Circuit Court.

8. SLS reserves the right to amend or supplement this Notice of Removal or to present additional arguments in support of its entitlement to remove this case.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Circuit Court of Gilmer County, West Virginia. A copy of the Notice of Filing of Notice of Removal is attached as **Exhibit D**.

SMITH LAND SURVEYING, INC.

By Counsel

/s/ Brian J. Moore
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**JOSEPH LOUDIN,
GLOBAL DRONE SURVEYING AND
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Plaintiffs,

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SMITH LAND SURVEYING, INC.,

Defendant.

1:20-CV-76 (Keeley)

Civil Action No. _____
(Formerly Gilmer County Circuit Court, Civil Action No. 20-C-7)

CERTIFICATE OF SERVICE

I, Brian J. Moore, hereby certify that on the 24th day of April, 2020, I electronically filed the foregoing ***Notice of Removal*** with the Clerk of the Court using the CM/ECF system, and certify that I have served the following by regular U.S. mail, postage prepaid:

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